IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2437 OF 2006

Smt. Malati Yeshwant Khamkar. ...Applicant.
Vs.
The State of Maharashtra. ...Respondent.

Mr. S.V.Kotwal i/by Advocate S.S. Bhandary for the Applicant.

Ms. S.V. Gajare, APP. for the State.

CORAM : R.S. MOHITE,J.
DATED : 06/7/2006.

P.C.

1. The applicant who is a lady seeks regular bail. She has been shown as an accused in C.R.No.195/2005 registered by Anti Narcotic Cell, CB, CID, Mumbai in NDPS Special Case No.44 of 2006. The police have filed charge-sheet and the applicant is now an accused in NDPS Special Case. The admitted position is that Ganja of 11.800 KG was seized from her person. This quantity is less than the commercial quantity of 20KG. It appears that there was another lady by name Rashida who was carrying 13.500KG Ganja and the same was seized from her person. The trial court has applied stringent provision by adding both the quantities found with the aforesaid ladies and has concluded that Ganja found was more than the commercial quantity. The Advocate for the applicant

has relied upon judgment of the Apex Court in the case of **Amarsingh Ramjibhai Barot Vs.State of Gujarat reported in 2005 Supreme Court Cases (Cri.) 1704** in which the Apex Court in similar situation held that Section 29 of the NDPS Act could not be applied where two individuals found together were carrying recovered substances. In my view, the offence involving commercial quantity with the applicant and another lady will have to be established either with the aid of Section 29 of the NDPS Act or Section 120B of the I.P.C. or any other relevant provision. In the circumstances, I am inclined to grant bail to the applicant.

. It is therefore, directed that pending trial in NDPS Special Case No.44 of 2006, the applicant may be released on bail in the sum of Rs.15,000/- with one surety in the like amount subject to the condition that she will report to the Investigating Officer,Anti Narcotic Cell, CB, CID Mumbai as and when called by the I.O.

. Application is disposed of.

(R. S. MOHITE, J.)

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